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| 10/730,260      | 12/09/2003  | Toshifumi Otsubo     | 2038-310            | 3334             |

7590 03/18/2010  
LOWE HAUPTMAN GILMAN & BERNER, LLP  
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Alexandria, VA 22314

EXAMINER

HAND, MELANIE JO

| ART UNIT | PAPER NUMBER |
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3761

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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*In re* Application of:  
OTSUBO, TOSHIFUMI  
Serial No.: 10/730,260  
Filed: Dec. 9, 2003  
Docket: 2038-310  
Title: PANTS-TYPE DISPOSABLE WEARING  
ARTICLE

DECISION ON PETITION TO  
REVIEW RESTRICTION  
REQUIREMENT UNDER  
37 CFR 1.144

This is a decision on the petition filed July 23, 2009 to review the election of species requirement under constructive restriction promulgated in January 6, 2009 Office action. The petition is being considered pursuant to 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.


The petition is **GRANTED**.

In the July 23, 2009 petition, petitioner requests the examiner to reconsider the election of species requirement of January 6, 2009 and withdrawal of claims 3, 6-14, 16, 18-21 and 24-29 from consideration in the January 6, 2009 Office action. The petitioner contends that the amended non-elected claim 3 of October 21, 2008 merely contains limitations from examined dependent claims 17 and 22. Therefore, there should not be any serious burden in search.

After consulting with the examiner, it was agreed that claims 3, 6-14, 16, 18-21 and 24-29 should be rejoined. The election of species requirement of January 6, 2009 is withdrawn as requested. An Office action on the merits including the rejoined claims will follow in due course. Therefore, the request to withdraw the election of species is hereby granted.

The application is being forwarded to the examiner via the Supervisory Patent Examiner for consideration of Rule 111 amendment filed on July 23, 2009. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

  
Donald T. Hajec, Director  
Technology Center 3700